

STATE OF ARKANSAS WORKFORCE INVESTMENT ACT WAIVER REQUEST

Waiver Against Subsequent Eligibility Determination and the Reinstatement of Initial Eligibility for All Training Providers on the Statewide Eligible Training Provider List

Background

The Arkansas Workforce Investment Board, after consultation with appropriate local elected officials and other key partners, is requesting a waiver of Section 122(c) and (d) that requires subsequent eligibility for Eligible Training Providers and the Reinstatement of the Initial Eligibility of Training Providers in Arkansas.

Additionally, the State wishes to revert back to the initial eligibility requirements for inclusion on the Eligible Training Provider List (ETPL), as provided for under the Workforce Investment Act (WIA) Section 122(b) and Title 20 CFE Section 663.530, related to eligible training provider provisions.

We request to waive the full implementation of the Subsequent Eligibility Determination process until the end of the Two-Year state plan, **June 30, 2007**, or until WIA Reauthorization.

Arkansas fully supports the concepts of consumer choice and program accountability as provided for in the Workforce Investment Act of 1998. The State also recognizes that performance information is critical in meeting the WIA principles of consumer choice and program accountability.

Most of Arkansas' training providers have already entered into the subsequent eligibility phase. Many of them, especially the two and four-year public colleges, have found it difficult or impossible to collect the required data due to the different reporting requirements for the Department of Education and WIA. This has caused many schools to be disqualified as Eligible Training Providers in Arkansas or to quit participating in the process.

Attempts were made to assist schools in obtaining the necessary information for subsequent eligibility by matching student social security numbers with UI wage records. Due to the FERPA law and the realization that not all schools collect and/or use actual social security numbers for enrollment, the process was not successful. The few training providers who do collect the required data have also found it difficult to meet the State minimum levels. In many instances, one poor WIA performer has disqualified a program due to the small number of WIA participants served by the program.

Therefore, in an effort to maintain as adequate number of training providers and programs on Arkansas' Eligible Training Provider List, Arkansas is requesting the reinstatement of the initial eligibility requirements and a waiver from the subsequent eligibility requirements.

While we recognize that requesting both a waiver from subsequent eligibility and reverting back to initial eligibility requirements may differ from the majority of the requests that the Department of Labor has historically approved, we are confident that this request represents our best efforts and good intentions to provide true "customer choice" to the citizens of Arkansas.

1. Statutory Regulations to be Waived:

The WIA Section 122(c)(5) and Title 20 CFR 663.530 dealing with the time limit for initial eligibility would be waived.

2. Goals to be Achieved as a result of the Waiver:

As a result of this waiver request, Arkansas seeks to:

- a) Retain approved Eligible Providers and continue to increase their numbers thereby providing quality customer choice for Arkansas' job seekers.
- b) Alleviate providers' concerns with the types and amount of required information.
- c) Have sufficient time to develop an effective and efficient method of collecting data from training providers.
- d) Have sufficient time to develop reasonable criteria for subsequent eligibility performance information.

The goal is to increase the quality and quantity of the customer choice for selection of programs on the State list of eligible training providers. We fully understand the need for accountability and support efforts to ensure that customers are making informed decisions based on quality data. However, when the ability to effectively collect the required data is severely limited, the results can all but eliminate customer choice, and significantly reduce the use of Individual Training Accounts.

3. State or Local Statutory or Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implement the request waiver.

4. Description of Waiver Goal and Programmatic Outcomes:

The waiver will allow Arkansas the time necessary to thoroughly assess the Eligible Training Provider process and develop an effective and efficient method of data collection and dissemination. The reversion back to Initial Eligibility will afford Arkansas' job seekers an opportunity to take advantage of the wide array of programs provided by the State's training providers.

5. Individuals affected by the Waiver:

This waiver will positively affect Arkansas' public and private training providers. As indicated earlier, these mandated reporting requirements are so burdensome and costly that some providers have found it necessary for them to end their WIA participation. This waiver would avert this problem by allowing the State to retain providers that are currently participating and also allow for the reinstatement of past providers. This waiver will have a system wide impact either directly or indirectly on all training customers, training providers, and all WIA boards.

6. Description of the Process to Monitor Progress:

The Department of Workforce Services' (formerly Employment Security Department) Labor Market Information Section will continue to monitor the progress of the above-mentioned actions and related activities.

7. Public Comment on Waiver Request:

On May 15, 2005, a public notice was published to announce the beginning of the official 30-day public comment period, with links to the website that contained the plan that included this waiver request. Subsequent public meetings of the Executive Committee of the Workforce Investment Board were held on May 26, 2005 and May 31, 2005.

State of Arkansas
Request for Waiver
Prohibition of use of Individual Training Accounts for Older Youth

The Arkansas Workforce Investment Board is requesting an extension of the waiver of the regulatory prohibition of using Individual Training Accounts (ITAs) for older youth and out-of-school youth.

In compliance with WIA Section 189(I)(4)(B) and WIA Regulations 661.420(c), please accept the following as a request for a waiver.

Statutory Regulation to be Waived:

WIA Regulation 29 CFR Section 664.510 prohibits the use of Individual Training Accounts for youth participants. This waiver requests the use of Individual Training Accounts for older youth and out-of-school youth with implementation being upon approval of this request for extension of the existing waiver along with the PY 2005-2006 Two Years of the Five-Year Arkansas State Plan effective July 1, 2005.

The state of Arkansas is requesting such a waiver that will allow older youth and out-of-school youth, if deemed appropriate, to select approved ITA programs from Arkansas' Eligible Training Provider (ETP) List, while retaining their "youth" classification.

Goals to be Achieved by the Waiver:

Provides to local areas a mechanism for improving the comprehensive services available by providing an additional service option.
Ensures that local areas have enough flexibility to deliver services based on the individual needs of participants as intended under WIA.
Reduces the paperwork and tracking requirements of dual enrollment as is currently necessary for older youth to access occupational skills training through the Adult Individual Training Account (ITA).
Offers older youth an opportunity to make informed decisions that have a direct impact on his/her future.
Improved service through increased customer choice in assessing training opportunities.

State or Local Statutory or Regulatory Barriers:

There are no existing state or local statutory or regulatory barriers to implementing this waiver request.

Description of the Goals of the Waiver and Expected Outcomes:

The Workforce Investment Act of 1998 changed the focus of youth programs from the provision of short-term, stand-alone job training to providing year-round, long-term services. This change is designed to assist both in-school and out-of-school youth make the transition to post-secondary training and careers.

Although Arkansas supports this change in focus, we believe that the needs of some older youth can best be met with an additional training option. Unlike younger, in-school youth, older youth are one of the most difficult populations to serve because their primary interest lies in obtaining self-sufficient, full-time employment. The comprehensive service elements required within the year-round youth program sometimes delays access to training and employment. This delay may result in a negative outcome for the older youth rather than encouraging their continued participation in the program.

The Arkansas Workforce Investment Board recognizes the Workforce Investment Act's requirement that local areas make available a menu of ten program elements. While the use of Individual Training Accounts (ITAs) will only address one of these program elements, occupational skills, training, the full menu of services will still be available to all eligible youth.

Description of the individuals impacted by the Waiver:

The waiver can positively impact all older WIA eligible youth. These customers will receive the type of services that most closely and quickly meet their individualized needs without unnecessary paperwork, tracking, and delay.

The waiver can positively impact Local Boards, as they will benefit by not having to direct limited administrative resources to costly and time-consuming competitive procurements.

Training providers will benefit because they will not have to follow two separate processes to provide services to Adult/DLW vs. Older/Out-of-School Youth.

Opportunity for Local Boards and interested parties to Comment on the Waiver Request:

This waiver request was initiated based on needs identified by Arkansas' Local Boards.

A 30-day public comment period provided notice and an opportunity for all interested/affected parties to comment.

During the February 11, 2003 Arkansas Workforce Investment Board meeting, the waiver request was discussed and provided an opportunity for public comment.

On February 17, 2003, the Arkansas Workforce Investment Board emailed invitations to Arkansas' ten local workforce investment boards to comment on the proposed waiver.

Notification of the proposed waiver and a request for comments was published in the *Arkansas Democrat Gazette*, Arkansas' statewide newspaper, on February 14-16, 2003.

During a statewide WIA training session held on March 5, 2003, a roundtable discussion regarding the proposed waiver was conducted to solicit comments from workforce professionals and WIA partners.

Additional Information Required by TEGL 12-01

What guidelines will be provided to the local areas on the use of the ITAs?

The Arkansas Workforce Investment Board will issue authority and establish guidelines for the ten Local Workforce Investment Areas (LWIAs) To pursue the use of Individual Training Accounts (ITAs) for older youth in accordance with WIA regulations and as currently required for adults and dislocated workers. LWIAs will be reminded that all ten required WIA youth program elements (specified at 20 CFR 664.410) must remain available with the local areas that serve out-of-school youth with ITAs.

How will these guidelines be incorporated into local areas' service delivery plans for youth?

Each local area that chooses to make use of this ITA option for older youth will be required to include the option in their Two-Year PY 2005-2006 local plan. This revision must state how the ITA will be utilized, the maximum length of training, and the maximum amount of allowable funding.

What criteria will be used for determining when the use of the ITAs is appropriate?

Each local area that chooses to make use of this ITA option for older youth will establish operational guidelines, including the criteria to be used for determining when the use of ITAs is appropriate. The use of this option must not hinder the availability and use of the ten required WIA youth program elements. Local areas will be required to monitor ITAs during regularly scheduled monitoring visits. The State will also monitor ITAs during regularly scheduled monitoring visits.

What assistance will be provided to youth to assist them in choosing an appropriate service provider?

Each local area that chooses to make use of this ITA option for older youth will be required to describe, in their local plan, the assistance to be provided youth when assisting them in choosing an appropriate service provider.

Local areas will still be required to conduct an objective assessment of each participant to assist with the development of an individual service strategy. The use of ITAs will merely be an additional option available to the participant. It will be the responsibility of those local boards to provide training, technical assistance, and oversight to One-Stop staff and case managers.

Transfer of Workforce Investment Act (WIA) Title IB Funds Between the Adult and Dislocated Worker Funding Streams

The Arkansas Workforce Investment Board is requesting a waiver of the legislative provisions calling for the transfer of no more than 20% of a program year's allocation between the Adult and Dislocated Worker funding streams. The waiver would allow individual LWIBs, with the Governor's approval, the ability to transfer up to 40% of each program year allocation between the Adult and Dislocated Worker funding streams, beginning in Program Year 2005.

Waiver Duration: July 1, 2005 through June 30, 2007, or Upon Re-authorization of the Workforce Investment Act, whichever occurs later.

In compliance with WIA Section 189(I)(4)(B) and WIA Final Rules at 20 CFR 661.420(c), please accept the following as a request for a waiver.

Statutory Regulation to be Waived:

P.L. 105-220, WIA Section 133(b)(94)(A) and (B), and Regulation 29 CFR Section 664.140(a) provide that with the approval of the Governor, Local Workforce Investment Boards (LWIBs) may transfer up to 20% of a program year's allocation for adult employment and training activities, and up to 20% of a program year's allocation for dislocated worker employment and training activities between the two programs.

In Arkansas, the ten Local Workforce Investment Areas (LWIAs) are comprised of diverse economic and cultural communities that present unique challenges to the provision of WIA services. Historically, there are many dislocated worker events that occur annually, and conversely, some local areas have few plant closures and/or layoffs, and thus are able to serve a larger Adult population.

State or Local Statutory or Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implementing the waiver request. Arkansas Workforce Investment Board policies are in compliance with current Federal guidelines. Upon notification of approval of this waiver request, state policies will be issued to comply with the terms of the waiver. The state policies will outline specific actions each LWIB must take in requesting the Governor's approval to modify the LWIB's most current transfer rate (40%) between the Adult and Dislocated Worker funding streams. Specific actions will include, but are not limited to, a formal request to be submitted by the LWIA to the AWIB for review and action, and formal modification of the LWIB's local plan if approval of a new transfer rate is granted.

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Goals to be Achieved by the Waiver:

- Enhance the ability of local boards to respond to workforce and economic dynamics within their local areas
- Increase local flexibility in the design of adult and dislocated worker service plans
- Improve performance outcomes
- Improve the ability of local boards to provide targeted assistance in response to customer needs
- Enhance the local board's ability to respond to employer needs for workers trained in employer-specific skills.

Programmatic Outcomes to be Achieved by the Waiver:

The responsibility of LWIBs to plan, oversee, and evaluate the delivery of WIA employment and training programs in their respective areas through the workforce delivery system. Due to Arkansas' size, its rural and urban diversity, customer needs vary greatly from one local workforce investment area to another. The flexibility to transfer funds between the adult and dislocated worker programs will allow LWIBs to more effectively respond to their individual communities.

With the waiver, LWIBs will be able to design programs that speak to the service priorities among their customers, and that lead to customer employment and eventual self-sufficiency. The waiver will also help position Arkansas' workforce as a better skilled, and more competitive one in the light of a broader economic picture.

Description of the individuals impacted by the Waiver:

The waiver is expected to benefit LWIBs, Workforce Center partner programs, employers, service providers, and WIA customers overall.

- LWIBs will have the flexibility to design programs based on local needs and priorities
- Workforce Center partner programs will be able to better align their service offerings with those of the local WIA programs
- Employers will be better served through participants that acquire skills specific to each employers specification and need
- WIA program participants will receive services appropriate to the group in which they are eligible

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- Increased utilization of funds will result in more participants being served in the aggregate population.

Opportunity for Local Boards and interested parties to Comment on the Waiver Request:

Notification of the proposed waiver and a request for comments will be published in the *Arkansas Democrat Gazette*, Arkansas' statewide newspaper, and also posted to the Arkansas Workforce Investment Board Home Page for a period of at least 30 days during the formal submittal of this waiver request to the Department of Labor as a part of Arkansas' PY 2005-2006 Two-Year Strategic Plan.